

In The Matter Of:

JAMES D. SULLIVAN, et al. v.

SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION

EDWARD CANNING

April 24, 2018

COVERING ALL UPSTATE NEW YORK

**M-F Reporting, Inc.**

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Min-U-Script® with Word Index

EXHIBIT
9

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1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF VERMONT
3

4 JAMES D. SULLIVAN and LESLIE ADDISON,
5 WILLIAM S. SUMNER, JR., RONALD S. HAUSTHOR,
6 GORDON GARRISON, and TED and LINDA CRAWFORD,
individually, and on behalf of a Class of
persons similarly situated,

7 Plaintiffs,

8 -against- Civil Action No.:
9 5:16-cv-000125-GWC

10
11 SAINT-GOBAIN PERFORMANCE PLASTICS CORPORATION,
12 Defendant.
13

14 Videotaped Deposition Of:

15 EDWARD CANNING

16 (Pursuant to Rule 30(b))

17
18 SUBJECT TO AN AGREED-UPON PROTECTIVE ORDER

19 DATE: April 24, 2018
20 TIME: 9:13 a.m. - 7:54 p.m.

21 HELD: HINKLEY ALLEN
30 South Pearl Street, Suite 901
22 Albany, New York 12207

23 BEFORE: Brenda J. O'Connor-Marello, CSR,
Certified Shorthand Reporter and
24 Notary Public in and for the
State of New York.
25

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1 A P P E A R A N C E S:

2 APPEARING FOR THE PLAINTIFF(S) :

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18 -and-

19 BY: MARINA SCHWARZ, ESQ.
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20

21

22 Also Present:

23 David Freedman, Videographer

24

25

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1 Q. -- as far as your responsibilities. One
2 is: Coordinate all aspects of EHS due
3 diligence as it concerns the acquisition
4 of new businesses in various regions of
5 the world.

6 Is that an accurate description of
7 some -- one of your responsibilities?

8 A. That would be accurate as it concerns
9 today's responsibilities.

10 Q. Okay. Next sentence was: Also
11 responsible for coordinating integration
12 of new businesses from EHS culture and
13 regulatory perspective. Does that ring
14 true?

15 A. Yes, it does.

Category	Length (approx.)
1	9.5
2	8.8
3	8.2
4	7.8
5	7.5
6	7.2
7	6.8
8	6.5
9	6.2
10	6.0



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21 Q. What is due diligence, by the way?

22 A. Typically it's in the context of the
23 environmental health and safety function.
24 It would be an attempt to determine if
25 there are environmental liabilities, so

1 contaminated soils; in the case of a stock
2 purchase, were there prior sites; what was
3 the history of the prior sites, so
4 determine what exposures and -- from a
5 liability standpoint. Also, what are the
6 health and safety conditions like in the
7 interior of a plant? So it's -- it's dual
8 purpose to -- to find what liabilities
9 might exist. And also, from a planning
10 standpoint, post-acquisition, what sort of
11 work will need to be done in some sort of
12 prioritized manner to address concerns
13 that relate to employee safety and health?

14 Q. Does it include environmental matters
15 outside the plant fence as well? I can
16 be --

17 A. Well --

18 Q. -- more specific if you want.

19 A. Sure.

20 Q. Does it include compliance with permits
21 for air pollution, for instance?

22 A. Absolutely. It would -- it would include
23 that, yes.

■

■

■

■

■

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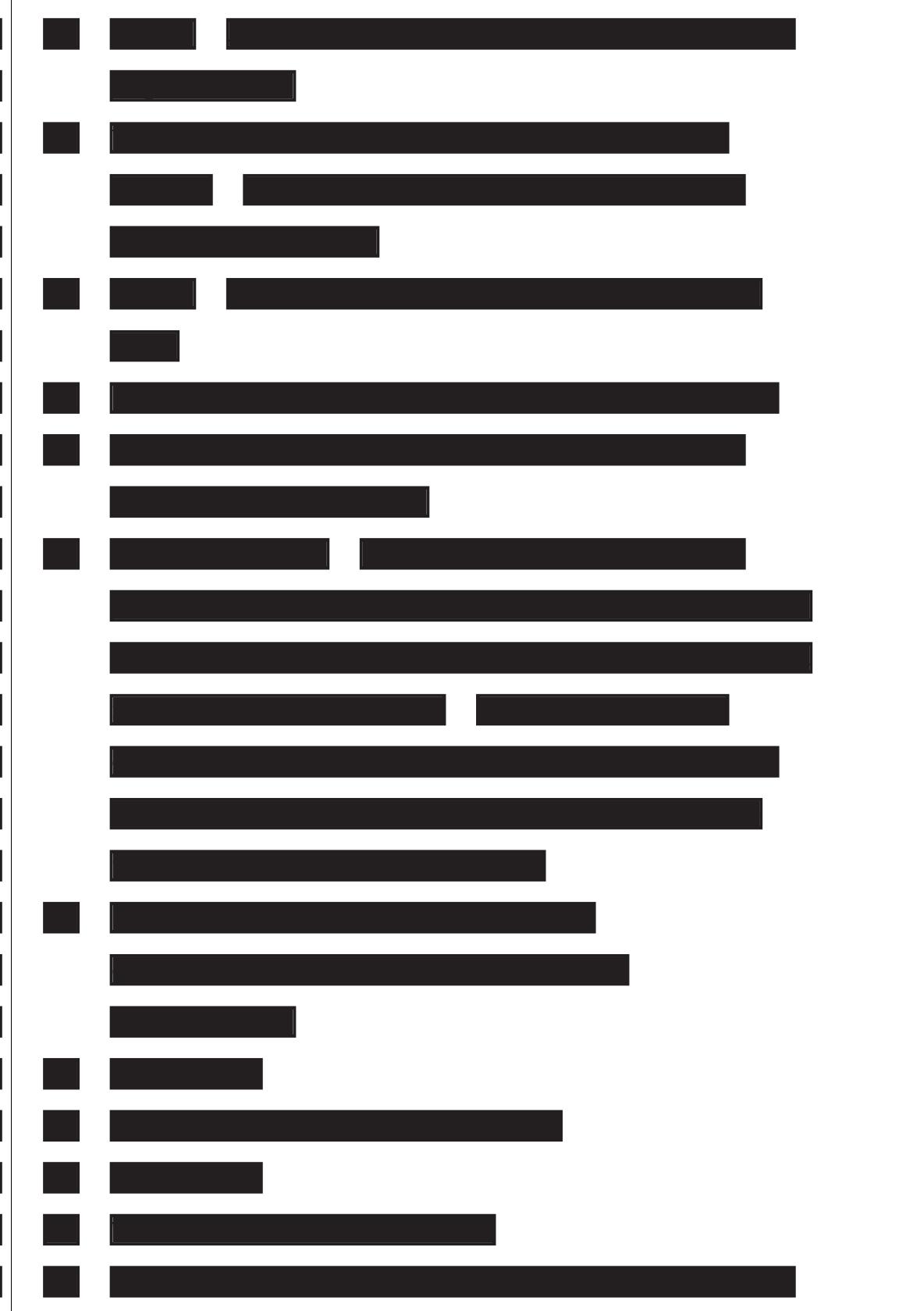
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40



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41



The image shows a large rectangular area with a black border. Inside this area, there are 20 horizontal black bars of varying lengths, representing redacted text. The bars are positioned in a grid-like pattern, with a small vertical gap between each bar. The lengths of the bars vary, with some being relatively short and others being quite long, extending almost to the right edge of the redacted area.

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2 Q. Okay. Do you consider yourself an
3 industrial hygienist?

4 A. I do not.

5 Q. Do you consider yourself a toxicologist?

6 A. No.

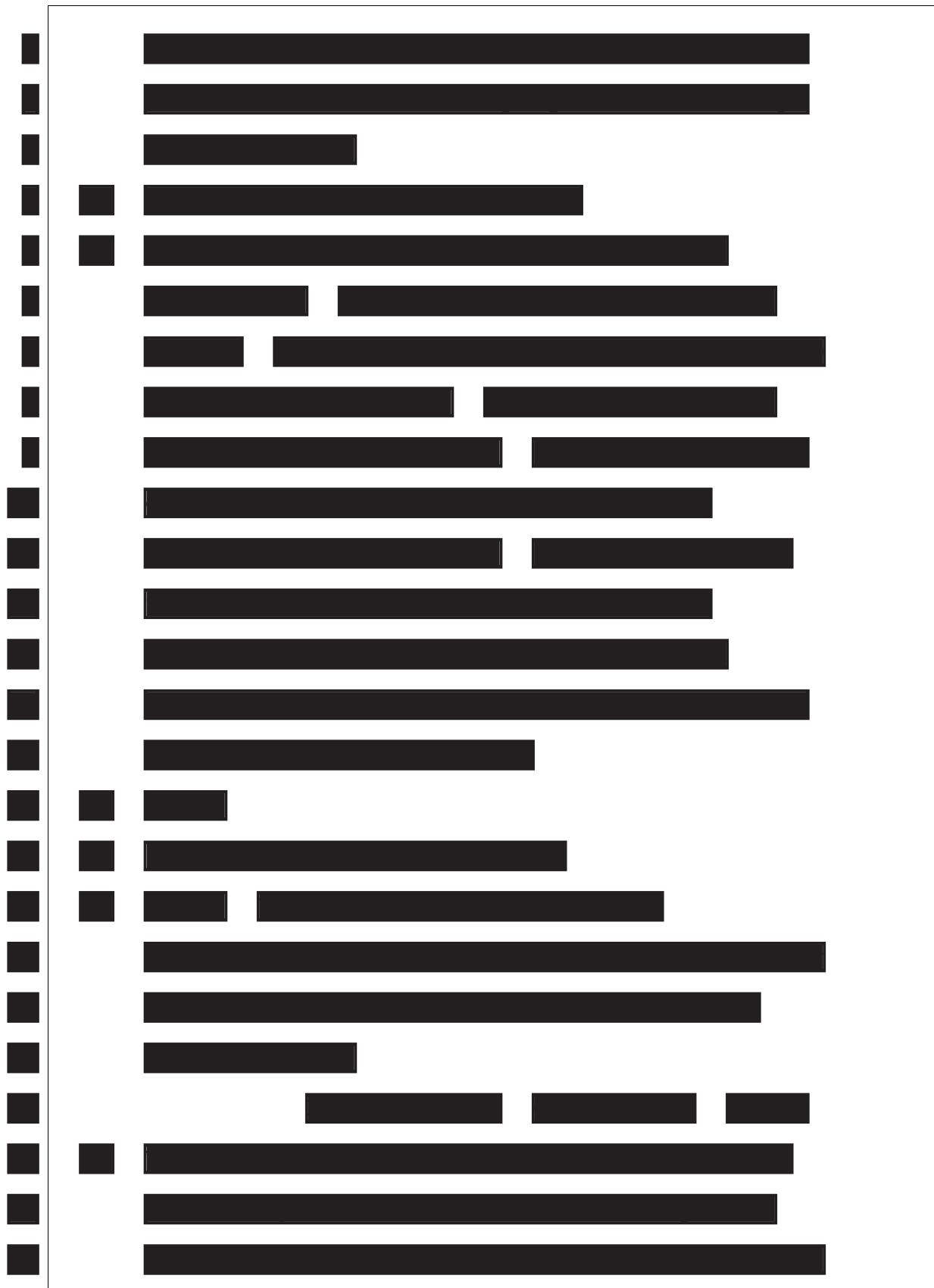
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60



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q. Okay.

10 MR. DAVIS: We've been going
11 about an hour. Why don't we take a
12 short break.

13 MR. FLEMING: Sure.

14 VIDEOGRAPHER: The time is
15 10:20. We are off the record.

16 * * *

17 (A brief recess was taken.)

18 * * *

19 VIDEOGRAPHER: Time is 10:30.
20 We're on the record.

21 BY MR. DAVIS:

22 Q. Are you ready to proceed, Mr. Canning?

23 A. Yes, I am.

24 Q. Okay. Thanks.

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A horizontal bar chart consisting of 20 bars of varying lengths. Each bar is preceded by a small black square. The bars are arranged vertically, with the first bar at the top and the last bar at the bottom. The lengths of the bars decrease from top to bottom, creating a descending staircase pattern. The bars are solid black and have thin white outlines.



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The figure consists of a 20x20 grid of black bars on a white background. The bars are arranged in a pattern where most are long horizontal bars, and some are shorter vertical or horizontal bars placed in the gaps between the long bars. The pattern is roughly triangular, with the longest bars at the top and bottom and shorter bars filling the gaps.

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A horizontal bar chart consisting of 20 black bars of varying lengths. The bars are arranged in a single row, decreasing in length from left to right. The first bar is the longest, and the last bar is the shortest. The bars are separated by small gaps.

10 Q. So do you believe a responsible company,
11 upon being notified by Du Pont of a
12 particular health issue caused by APFO,
13 would -- would inform the state agency
14 about that?

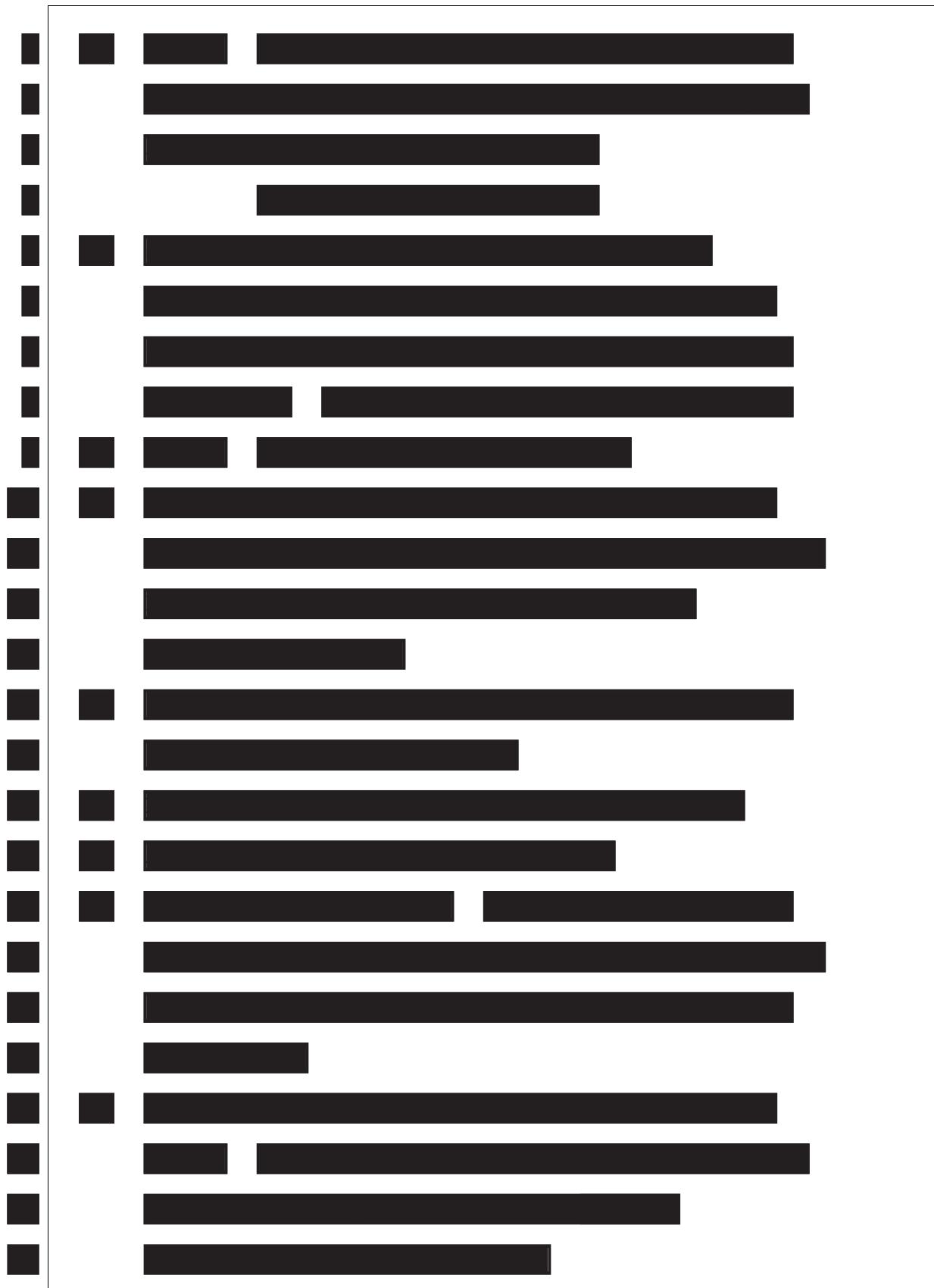
15 MR. FLEMING: Objection to form.

16 A. But that's -- you're speaking in, I take
17 it, hypothetical terms here.

18 Q. Kind of, I am.

19 A. So --

20 MR. FLEMING: Objection to form.



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* * *

A horizontal bar chart consisting of 15 dark gray bars of varying lengths, arranged in a grid pattern. The bars are aligned to the right of the bars in the row above them.

Column	Row 1	Row 2	Row 3		
1	Bar 1	Bar 2	Bar 3		
2	Bar 4	Bar 5	Bar 6	Bar 7	
3	Bar 8	Bar 9	Bar 10	Bar 11	Bar 12
4	Bar 13	Bar 14	Bar 15		

18 MR. FLEMING: Objection to form.

19 And the witness is entitled to review
20 the document again if you're going to
21 be asking him questions.

22 MR. DAVIS: I will. I will give
23 him time.

* * *

25 (Pause for review of Exhibit 4.)

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1 | * * *

2 | BY MR. DAVIS:

3 Q. Let me know when you're ready.

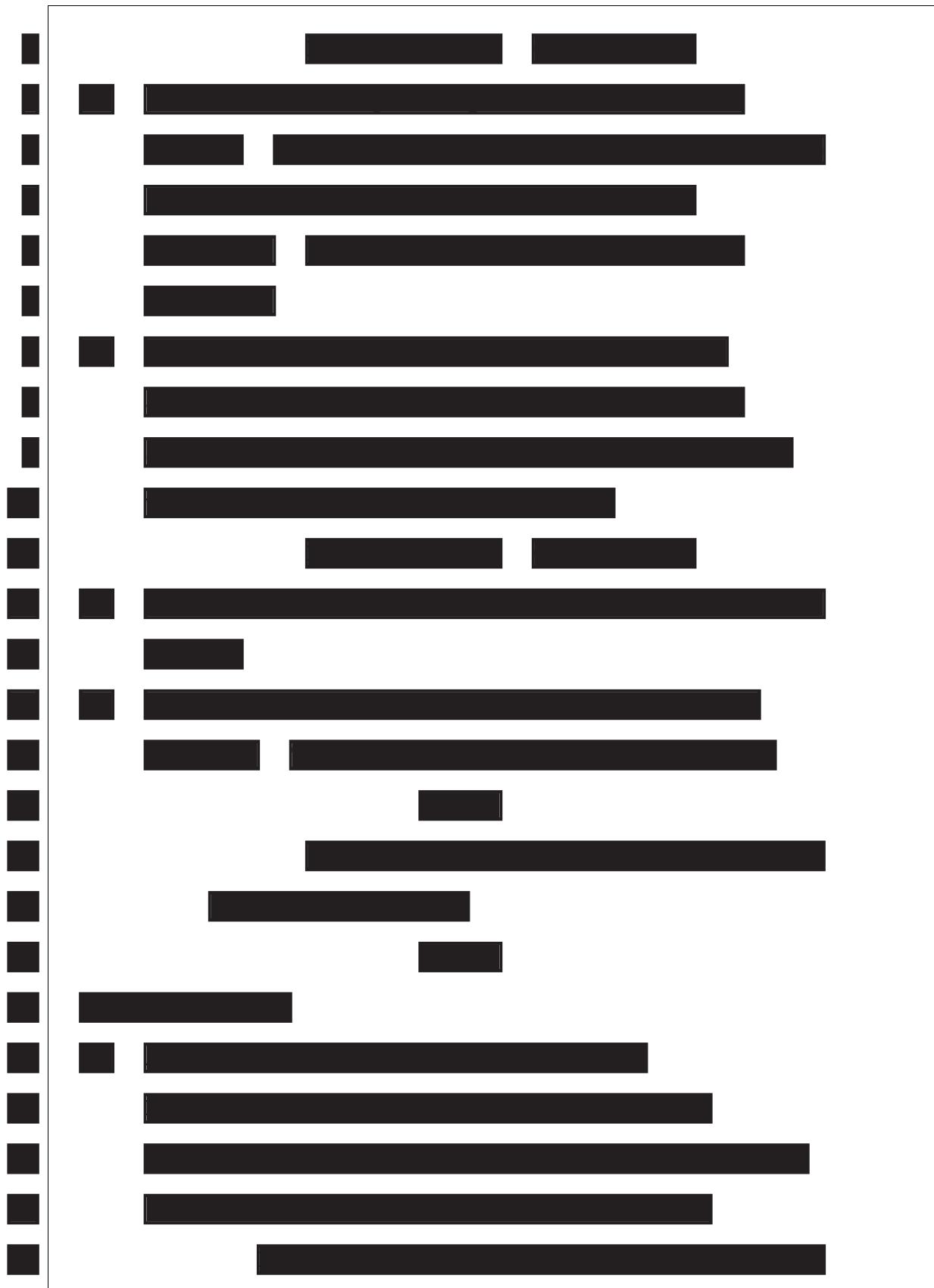
4 A. Okay. I'm ready. I don't recall ever
5 having seen this document before.

6 Q. The -- just so -- I want to point your
7 attention to two sentences here. One is
8 the second sentence that says: Current
9 permit data indicates that the facility is
10 operating at 10 percent of the AGC for
11 ammonium perfluorooctanoate.

A horizontal bar chart with 10 categories on the y-axis and sample counts on the x-axis. Category 3 has a single bar at x=1, while other categories have bars at x=1000.

Category	Sample Count
0	1000
1	1000
2	1000
3	1
4	1000
5	1000
6	1000
7	1000
8	1000
9	1000



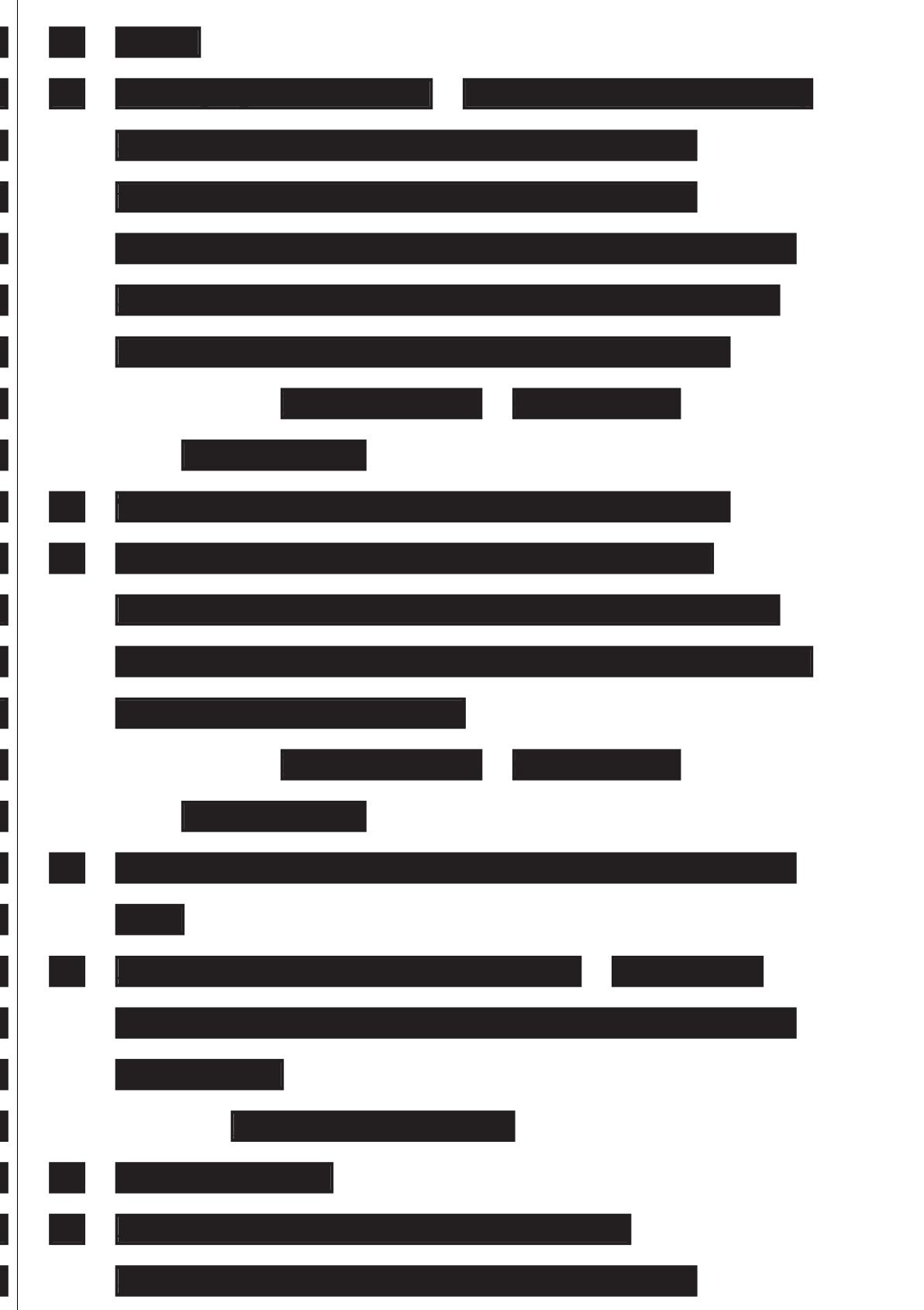


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A horizontal bar chart showing the length of 1000 random strings for different values of n . The x-axis represents the length of the strings, and the y-axis represents the value of n . The bars are black and have varying widths. Three asterisks are placed at the end of the bars for $n=8$, $n=11$, $n=19$, and $n=21$.

n	Length Range
8	0 to 1000
11	0 to 1000
19	0 to 1000
21	0 to 1000



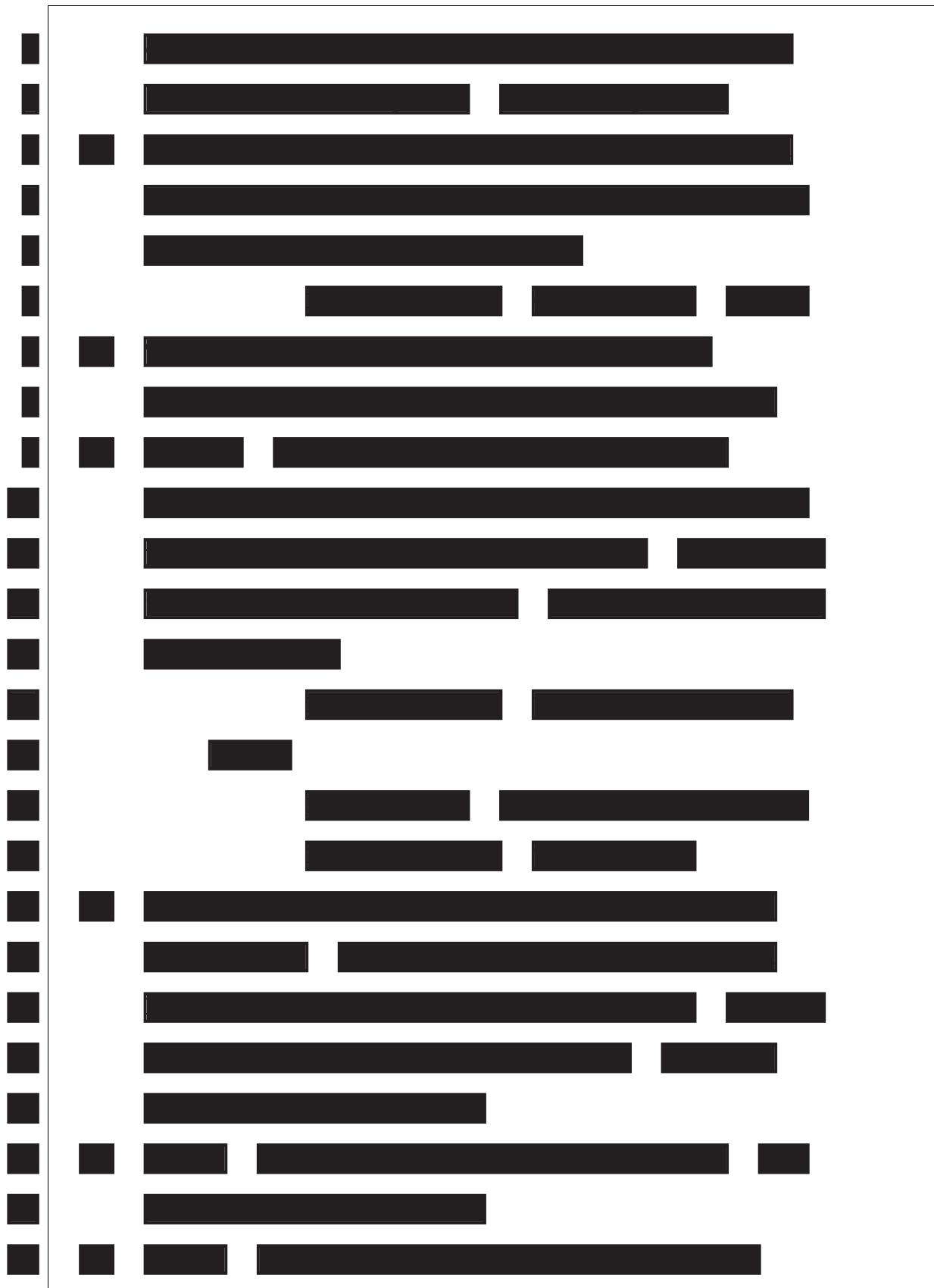
The redacted area contains approximately 20 horizontal black bars of varying lengths, suggesting redacted text or code. The bars are distributed across the page, with some appearing in pairs or groups. The redacted area is bounded by a black border.

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A 20x20 grid of black bars on a white background. The bars are arranged in a pattern that suggests a binary matrix or a sparse matrix with a regular structure. The bars are black and have a uniform width. The grid is composed of 20 horizontal rows and 20 vertical columns. The bars are positioned such that they form a series of horizontal and vertical lines, with some bars being longer than others, indicating varying values or weights in the matrix. The overall pattern is a mix of solid black bars and white spaces, creating a high-contrast visual representation of the data structure.





The image shows a large rectangular area with a black border. Inside this area, there are approximately 20 horizontal black bars of varying lengths. These bars are distributed across the page, with some appearing in pairs or small groups. The lengths of the bars vary significantly, from very short segments to long, continuous lines. The overall effect is one of extensive redaction or redaction patterns.

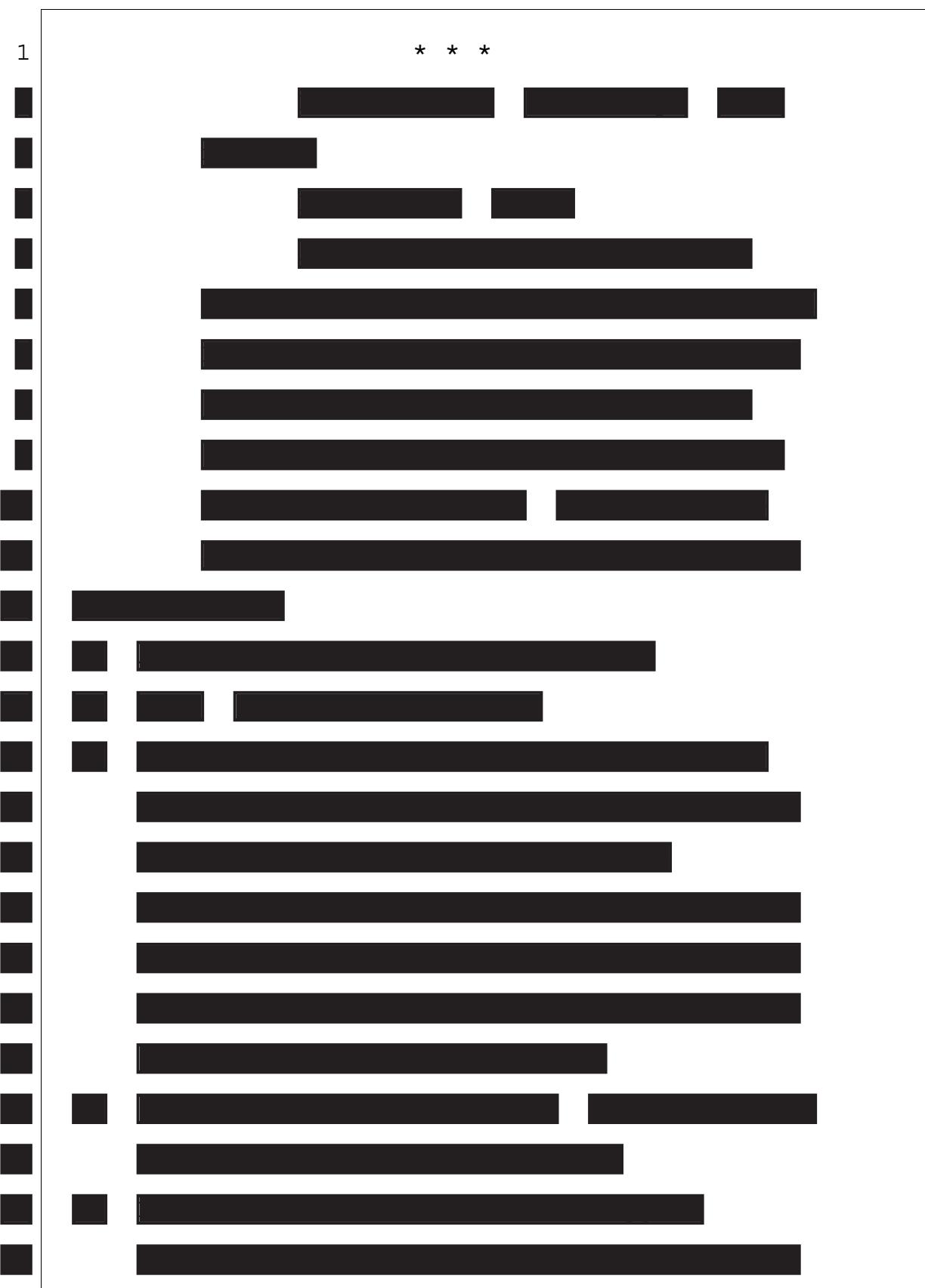


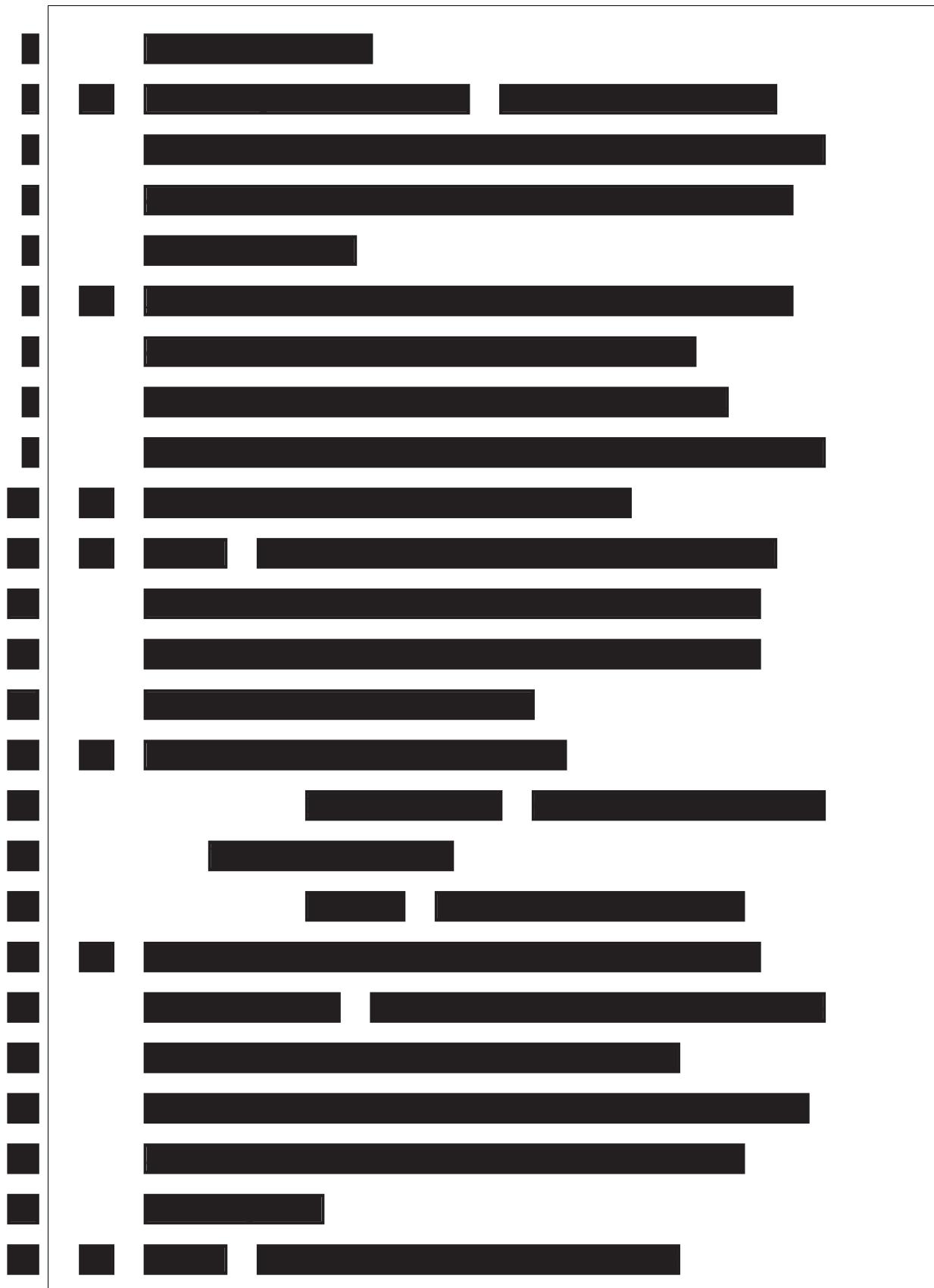
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A horizontal bar chart with 1000 black bars. The x-axis is labeled 'Number of samples' and ranges from 0 to 1000. The y-axis is labeled 'Category' and ranges from 0 to 99. The bars are arranged in a grid, with the first 10 bars on the far left being taller than the others. The bars are black and have a thin white outline. The chart is set against a white background with a light gray border.

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This figure is a 2D bar chart consisting of 20 horizontal rows. Each row is defined by a thin black vertical line. On the left side of each row, there is a small black square. To the right of each square is a long, horizontal black bar. The length of these bars varies significantly from row to row, creating a visual representation of data distribution. Some bars are very short, while others extend almost to the right edge of the chart area.

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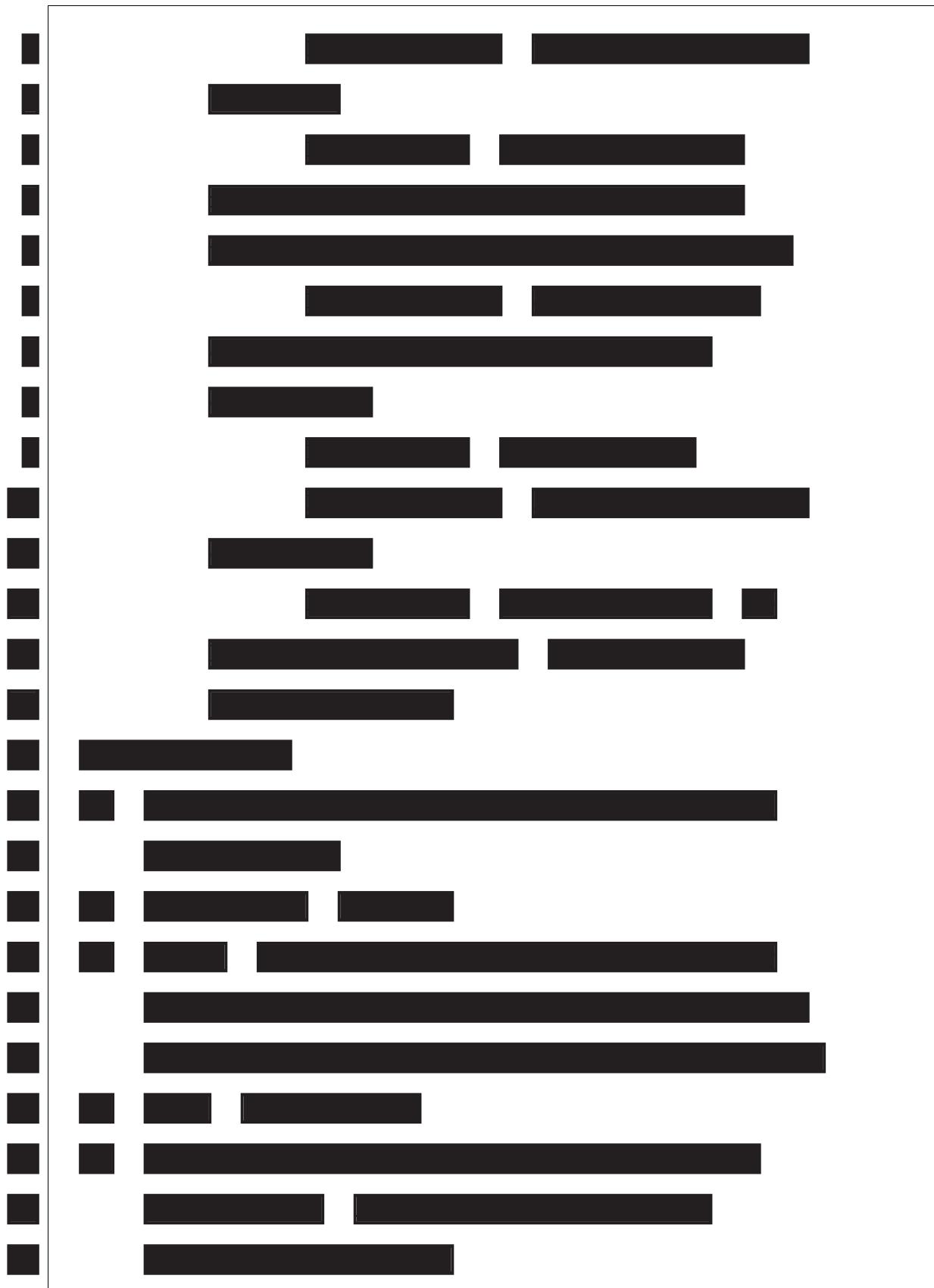
135

The figure consists of a single horizontal row of 25 black bars. The bars are of varying lengths, creating a visual representation of data distribution. Some bars are very short, while others are quite long. The bars are separated by small gaps, and they are all oriented horizontally.

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A 20x20 grid of black bars on a white background. The bars are arranged in a pattern where each row contains 19 bars. The first bar in each row is at the top, and the last bar is at the bottom. The bars are of uniform width and height, and they are positioned such that the gaps between them are consistent across all rows.



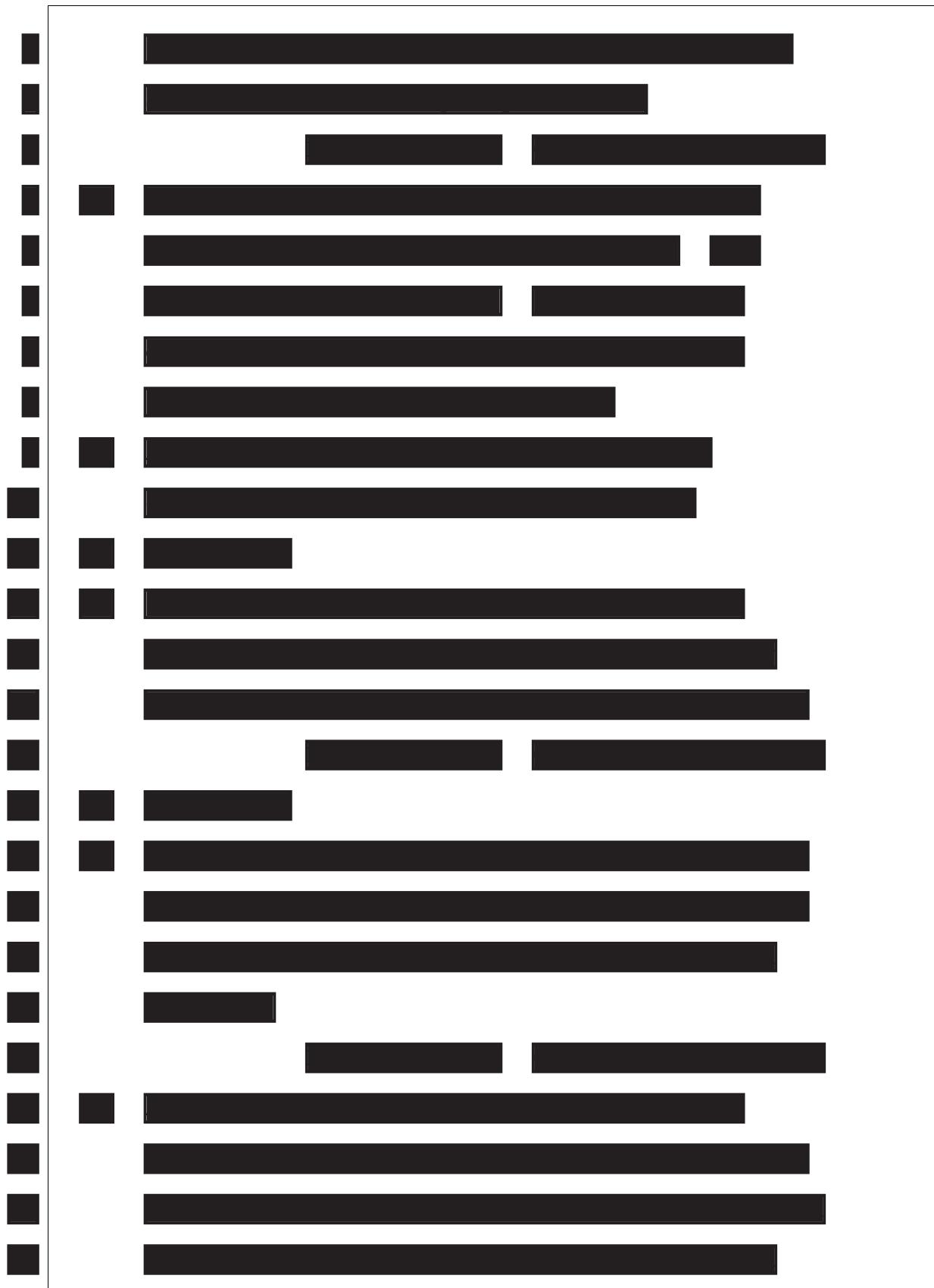




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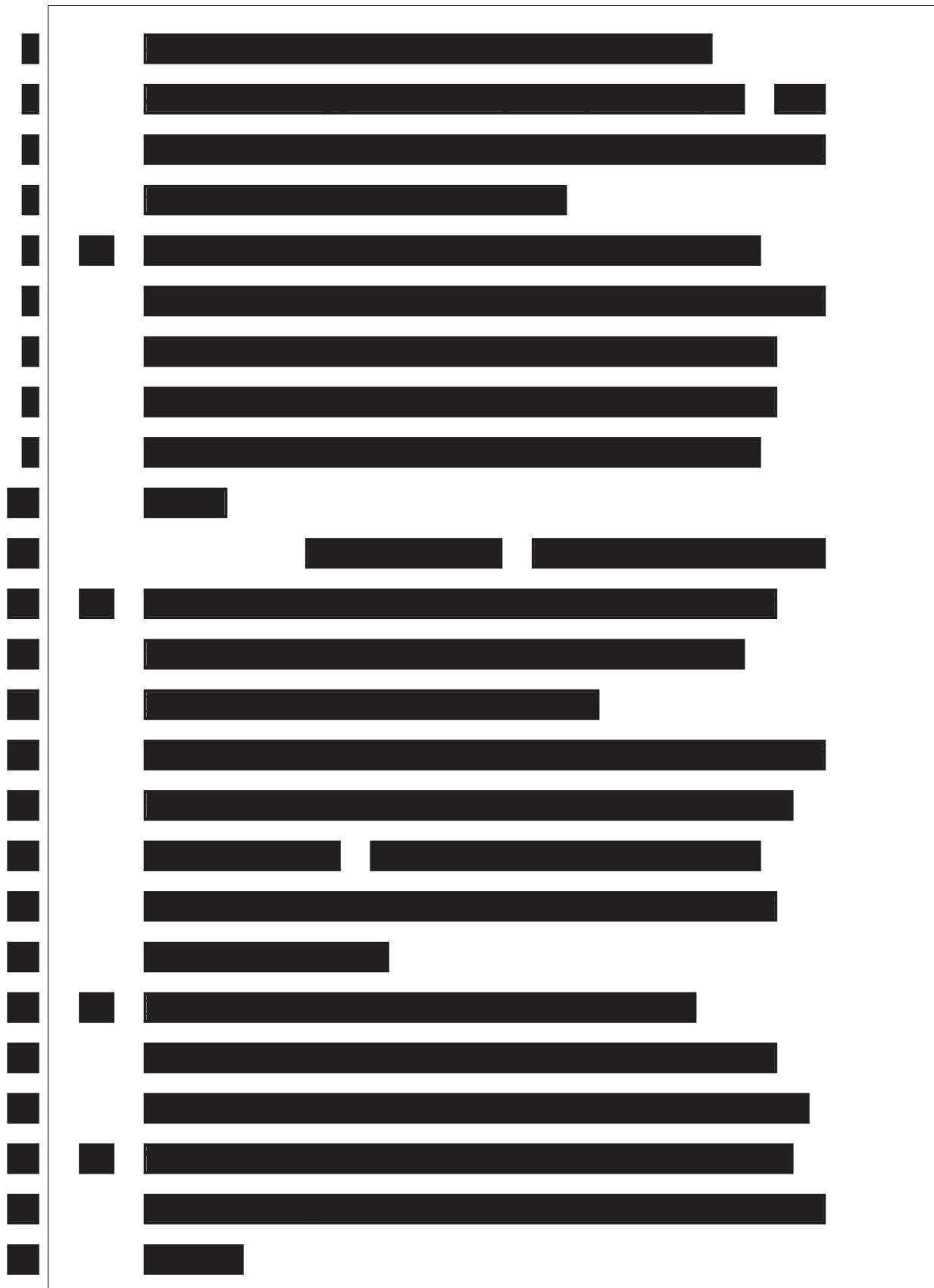












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1 your answer, Mr. Canning?

2 A. So there were -- there was information
3 provided by suppliers to, you know,
4 technical personnel, who would have been,
5 for example, Ruth Jamke and others like
6 her that were frequently interacting with
7 suppliers. There was that information
8 that was conveyed. There's probably
9 additional information that I'm just not
10 privy to or aware of. But we did find
11 that the actual concentrations during that
12 period were much lower than 5,000 parts
13 per million.

14 MR. DAVIS: He needs to take a
15 break.

16 | VIDEOGRAPHER: Time is 2:14.

17 We're off the record.

18 | * * *

ef rec

20 | * * *

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22 | DVD 3.

23 BY MR. DAVIS:

24 Q. Mr. Canning, you had suggested that you
25 had gotten back some data from suppliers

11

* * *



The document contains a large rectangular area with a black border, filled with numerous horizontal black redaction bars. On the far left edge of this redacted area, there are vertical black tick marks, one for each horizontal bar. The redaction bars vary in length, with some being very long and others very short or non-existent.

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The figure consists of a series of 20 horizontal black bars of varying lengths, arranged in a sequence from left to right. The bars are set against a white background. The lengths of the bars are as follows:

Bar Number	Approximate Length (Relative)
1	Very Short
2	Very Short
3	Very Short
4	Very Short
5	Very Short
6	Very Short
7	Very Short
8	Very Short
9	Very Short
10	Very Short
11	Very Short
12	Very Short
13	Very Short
14	Very Short
15	Very Short
16	Very Short
17	Very Short
18	Very Short
19	Very Short
20	Very Short

There are three asterisks (*) centered in the middle of the chart area, positioned between the 7th and 10th bars.

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* * *

Category	Completion (%)
0	100
1	~80
2	100
3	~60
4	100
5	~40
6	100
7	~20
8	100
9	100

14

* * *



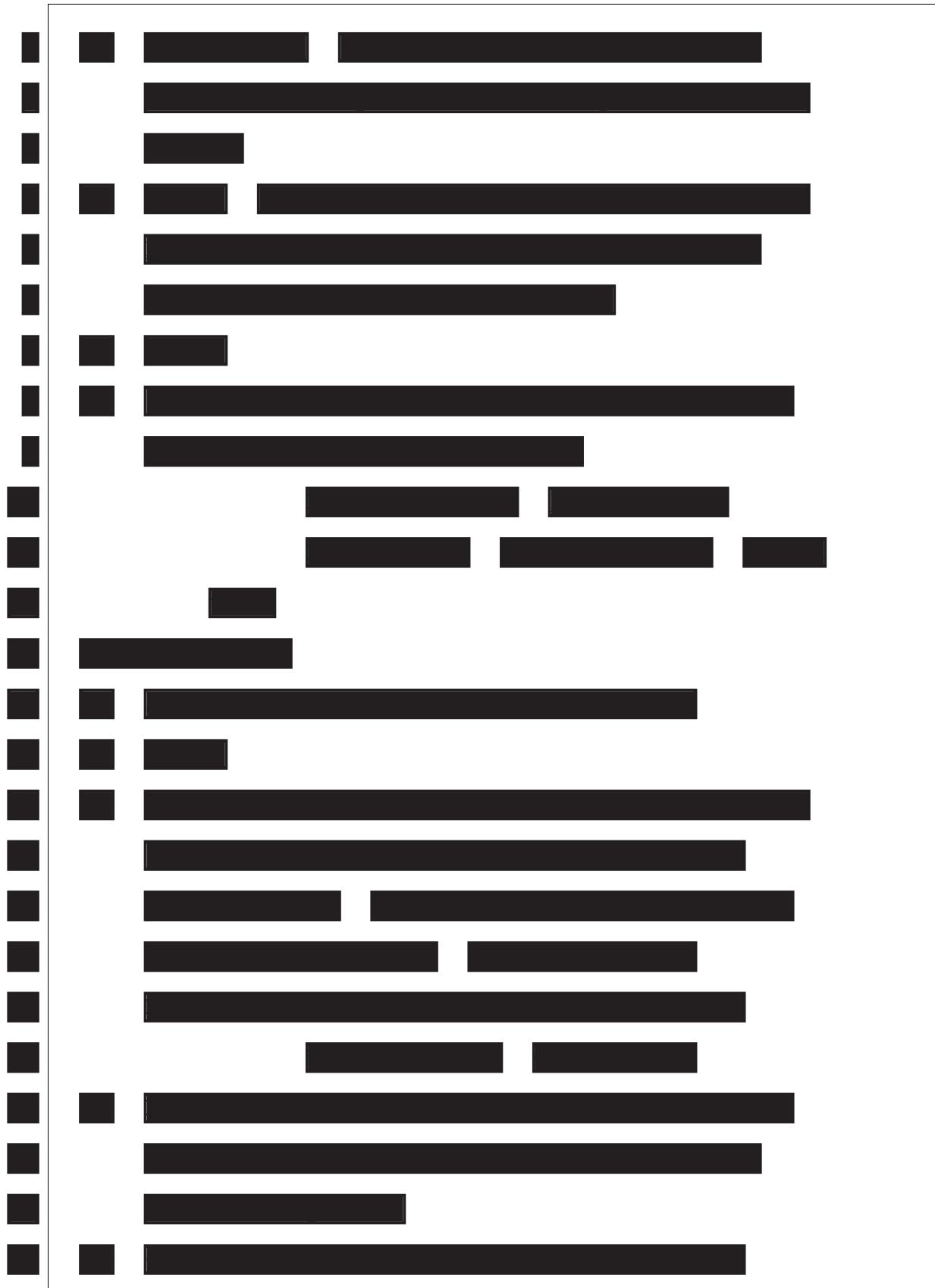


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13 * * *

16 * * *





3 Q. And I asked you -- I think it had to do
4 with 3M's announcement. And do you recall
5 that announcement being in May of 2000?

6 A. I don't remember that.

7 Q. Let me show you a letter from 3M to
8 CHEMFAB.

9 MR. DAVIS: And we'll make this
10 Exhibit 27.

11 * * *

12 (Exhibit 27 herein was marked for
13 identification.)

14 * * *

15 BY MR. DAVIS:

16 Q. And you'll see -- the Bates stamp on this
17 is a 3M Bates stamp because we also
18 received documents from 3M in this case --

19 A. Okay.

20 Q. -- as well as other cases.

████████████████████
████████████████████
████████████████████
████████████████████
████████████████████

7 Q. So I don't have the May 17th, 2000 letter
8 that's referenced here to talk about
9 phaseout plans for PFOA products, but this
10 letter -- you can take whatever time you
11 need to review it. It does refer to the
12 phaseout of 3M products containing PFOA,
13 does it not?

14 A. Yes, it seems to. Yes.







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A horizontal bar chart consisting of 20 black bars arranged in a grid. The grid has 4 rows and 5 columns. The bars are of varying lengths, creating a visual representation of data. The lengths of the bars decrease from left to right across each row and increase from bottom to top within each column. The bars are black and have thin white outlines.

23 Q. There are hundreds of studies that were
24 placed in the administrative records,
25 which was AR-226. Do you recall that?

1 A. I do not, I'm afraid.

[REDACTED]

14 Q. Did you, yourself -- and let me back up
15 just one second.

16 The EPA process, do you recall it
17 being called a "product stewardship
18 process"?

19 A. I have some sort of vague recollection
20 about that, later on, at least. Like, at
21 which time period are you referring to,
22 like '05 or after?

23 Q. Well, 2002 up to 2006.

24 A. Okay.

25 Q. Do you recall that being the time --



The image shows a large rectangular area with a white background. Inside this area, there are approximately 25 horizontal black bars of varying lengths. These bars are positioned in a grid-like pattern, with some bars appearing in pairs or groups. The bars are solid black and have a consistent thickness. The overall effect is one of redacting sensitive information from a document.



8 BY MR. DAVIS:

9 Q. Is that a yes?

10 A. Well, I do recall reading about -- I
11 believe that's the Little Hocking --

12 Q. Yes.

13 A. Yes, I do.

14 Q. And was that in the 2003 time frame?

15 MR. FLEMING: Objection to form.

16 A. I have no idea when that was. I mean, it
17 became an infamous situation. I don't
18 remember when I first heard about that.

19 Q. Certainly it was known in the industry
20 around the time that it became public.

21 A. It was all in the papers and -- yeah.





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15 * * *

17 * * *

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22 * * *

25 * * *

Index	Value
1	100
2	95
3	80
4	75
5	90
6	85
7	100
8	90
9	70
10	95
11	80
12	100
13	90
14	75
15	85
16	100
17	95
18	80
19	70
20	100

24 Q. Isn't it true that the first testing was
25 done in August of 2014 which detected PFOA

1 in the village water supply?

2 A. I don't have a specific recollection of
3 when the village tested their water
4 initially.

[REDACTED]

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12 MR. FLEMING: Could you let us
13 know how much time we're on the
14 record?

21 MR. DAVIS: Okay. We're going
22 to take our seven hours.

25 | COURT REPORTER: Thirty-one.

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5 | BY MR. DAVIS:

6 Q. Let me show you what we've marked as
7 Exhibit 32. This is a letter from David
8 Sarvadi with Keller and Heckman, LLP,
9 counsel to Saint-Gobain to the EPA, TSCA
10 Confidential Business Information in
11 Washington, D.C. dated December 30th,
12 2014.

13 Is this the letter that we were
14 just discussing that informed the EPA
15 about the contamination in Hoosick Falls?

16 | A. Can I take a moment --

17 Q. Yes.

18 A. -- just to quickly look at it? It's been
19 some time since I've seen this.

20 | * * *

21 (Pause for review of Exhibit 32.)

22 | * * *

23 | THE WITNESS: Okay.

24 BY MR. DAVIS:

25 Q. Yes?

1 | A. This is it, yes.

The figure consists of a 20x20 grid of black bars. The bars are primarily long and horizontal, spanning most of the width of the grid. Interspersed among these are several shorter, vertical bars that are positioned in a staggered, non-overlapping manner. The grid is enclosed within a thick black border.



